



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,976	03/22/2004	Daniel J. Zigmond	MS1-1928US	2171
22801 7590 12/11/2008 LEE & HAYES, PLLC 601 W. RIVERSIDE AVENUE SUITE 1400 SPOKANE, WA 99201				
EXAMINER WALSH, JOHN B				
ART UNIT		PAPER NUMBER		
2451				
MAIL DATE		DELIVERY MODE		
12/11/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/806,976

Applicant(s)

ZIGMOND ET AL.

Examiner

John B. Walsh

Art Unit

2451

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/26/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-30 is/are allowed.
- 6) ☒ Claim(s) 1-9, 13 and 31-35 is/are rejected.
- 7) ☒ Claim(s) 10-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 12/1/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-9 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent No. 6,392,664 to White et al.

As concerns claims 1, 5, 6 and 13, comprising: receiving a request for content associated with a channel (col. 3, line 43), wherein the request is received from a client device (14); identifying at the server (24; also 28 and 30 for content), service information data (col. 4, lines 1-10) associated with the channel in response to receiving the request for content associated with the channel, wherein the service information data is configured to be used by the client device to tune to the channel and wherein the service information is stored in a database coupled to the server (col. 5, lines 10-15, 32-35); determining how content associated with the channel will be provided to the client device (fig. 1); and sending instructions to the client device, wherein the instructions notify the client device how to access (56; fig. 4, 5) content associated with the channel.

As concerns claims 2 and 4, wherein determining how content associated with the channel will be provided to the client includes a transport type (col. 2, lines 42-47) associated with the content.

As concerns claims 3 and 4, wherein determining how content associated with the channel will be provided to the client includes a codec/encryption type associated with the content (col. 2, lines 21-26).

As concerns claim 5, further comprising: a second client device (fig. 1; multiple clients).

As concerns claim 7, a method as recited in claim 1 wherein identifying service information data associated with the channel includes retrieving service information data from a service information server (col. 3, line 65- server 24).

As concerns claim 8, a method as recited in claim 1 wherein the service information data associated with the channel includes at least one video component (col. 3, line 39) associated with the content.

As concerns claim 9, a method as recited in claim 1 wherein the service information data associated with the channel includes at least one audio component (col. 3, line 16) associated with the content.

3. Claims 1, 31, 33 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. PGPUB 2005/0160465 to Walker.

As concerns claim 1, a server (fig. 1; 14, 56), a client device (user; 18, 20, 22); service information associated with a channel (fig. 7; 123) stored in a database (32, 50, 12; paragraph 0050) coupled to the server.

As concerns claim 31, a service information server (56,50,12), a video router (30,12), client device (18,20,22), respective service information associated with a channel (fig. 7; 123).

As concerns claim 33, language format (inherent audio will have a particular language).

As concerns claim 35, a data communication network (34).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. PGPUB 2005/0160465 to Walker as applied above in view of US PGPUB 2004/0060063 to Russ et al.

Walker '465 do not explicitly disclose video quality formats and transport information.

Russ et al. '063 disclose video quality formats (0061) and transport information (0058-0061).

It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of Walker '465 with video quality format and transport information, as taught by Russ et al. '063, in order to provide a means of enhancing the services available to the user by providing the ability for increased video quality. Such a modification is a combination of known elements yielding predictable results.

Allowable Subject Matter

6. Claims 14-30 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of White et al. do not disclose the channel map information identifying service data and network information data as claimed in detail; as concerns claims 19-24, White et al. do not disclose storing the channel info at the client device, the service information data at the client device and the client revising the channel map as claimed in detail; as concerns claims 25-30, White et al. do not disclose the first and second service information data, first and second transport type and databases as claimed in detail.

8. Claims 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

As concerns claims 1-9 and 13 to White et al., the claims have been given the broadest reasonable interpretation and the new limitations have been addressed in the rejection above.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Thursday from 8:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John B. Walsh/
Primary Examiner, Art Unit 2451